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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

MUR 6271)

BILLY LONG)

BILLY LONG FOR CONGRESS AND)

RON NEVILLE, AS TREASURER)

BILLY LONG AUCTIONS, LLC)

CASE CLOSURE UNDER THE

ENFORCEMENT PRIORITY

SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters, compared to other higher

rated matters on the Enforcement docket, warrants the exercise of its prosecutorial

discretion to dismiss these cases. The Office of General Counsel scored MUR 6271 as a

low-rated matter.

In this matter, complainant Clayton Bowler alleges that congressional candidate and auctioneer Billy Long used his "corporation," Billy Long Auctions, LLC ("Billy Long Auctions"), to subsidize Mr. Long's campaign for Congress in Missouri's Seventh Congressional District.¹ Specifically, according to the complainant, Mr. Long, Billy Long Auctions, and Long's campaign committee, Billy Long for Congress and Ron Neville, in his official capacity as treasurer ("the Committee"), violated 2 U.S.C. § 441b(a) because the company allegedly shared its offices, telephone number, and staff, including an

¹ The complainant operates a blog entitled www.billylongiswrong.com.

1 individual named "Curtis Trent," with the campaign, which resulted in the making and
2 accepting of in-kind corporate contributions. In support of his allegations, the complainant
3 included copies of what appear to be fundraising letters from the Long campaign, which
4 list as campaign headquarters the address and telephone number used by the company, *see*
5 Billy Long Auctions website at <http://www.billylong.com/>. In addition, the complainant
6 states that he telephoned Billy Long Auctions and asked how to make a donation to the
7 Long campaign, and was told that he could drop it off at the company's business offices.

8 The complainant also supplied transcriptions of what appear to be two "tweets"
9 from "auctnr1," which seem to promote Mr. Long's campaign as well as his auction
10 business. Finally, the complainant asserts that he reviewed the Committee's financial
11 disclosure reports for 2009 and determined that, although the Committee reported
12 disbursements to Billy Long Auctions for "office staff and supplies" throughout the year, it
13 failed to report any disbursements to the company for office space until December 31,
14 2009. Thus, the complainant surmises that the company may have donated space to the
15 Committee as an in-kind corporate contribution, in violation of 2 U.S.C. § 441b(a).

16 Mr. Long, his Committee, and Billy Long Auctions (collectively "the respondents")
17 assert that "Billy Long Auctions, LLC," which is owned in its entirety by Mr. Long, is a
18 limited liability company ("LLC"), not a corporation and thus, by definition, cannot make
19 corporate contributions. The response attaches documentation from Missouri's Secretary
20 of State's office confirming Billy Long Auctions' status as a limited liability company.
21 Second, with respect to complainant's allegations concerning the Committee's use of Billy
22 Long Auctions' office space and staff, the respondents assert that the Committee

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1 reimbursed the company a total of \$10,966.15, for rent, staff, and other items, as reflected
2 in the Committee's financial disclosure reports. While maintaining that this figure
3 accurately reflects the value of goods and services received from the company, the
4 respondents opine that, even if the Committee's reimbursements to the company were
5 inadequate, the unreimbursed portion of goods and services should be considered to be
6 in-kind contributions from Mr. Long, the company's owner, to his campaign committee.
7 Finally, the respondents dispute the assertion that Curtis Trent performed work for the
8 campaign, while at the same time receiving compensation from Billy Long Auctions. The
9 respondents provided copies of invoices from Mr. Trent, which reflected disbursements to
10 him on the Committee's financial disclosure reports.

11 In general, multi-member limited liability companies may elect to be treated either
12 as partnerships or as corporations for federal tax purposes, regardless of their status under
13 state law. On the other hand, LLCs that are owned by one individual, such as Billy Long
14 Auctions,² may not elect partnership status, and are usually taxed as sole proprietorships,
15 unless they opt for corporate tax treatment, *see Explanation and Justification for 11 C.F.R.*
16 *110.1(g): Treatment of Limited Liability Companies Under the Federal Election*
17 *Campaign Act*, 64 Fed. Reg. 37397, 37399 (July 12, 1999). The Commission has
18 determined that single-member LLCs, unless they elect corporate tax status, are subject to
19 the contribution limits applicable to their sole members, *see 11 C.F.R. § 110.1(g)(4)*. To
20 avoid situations where recipient committees might inadvertently accept illegal
21 contributions from LLCs that have elected to be taxed as corporations, the Commission has

² The respondents assert that "Mr. Long is the 100% owner of the Company."

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1 provided that these companies must inform recipient committees as to whether they are
2 legally allowed to make contributions, *see* 11 C.F.R. § 110.1(g)(5).

3 In this situation, we have no definitive indication from any of the respondents as to
4 which type of tax treatment Mr. Long elected for Billy Long Auctions. Therefore, if
5 Mr. Long and Billy Long Auctions did not opt for corporate tax treatment, the company's
6 potential in-kind contributions to the Committee would be permissible as contributions
7 from the candidate.³

8 In light of the fact that the Committee has reported significant expenses paid to
9 Billy Long Auctions,⁴ and in furtherance of the Commission's priorities and resources,
10 relative to other matters pending on the Enforcement docket, the Office of General Counsel
11 believes that the Commission should exercise its prosecutorial discretion and dismiss this
12 matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

13 **RECOMMENDATIONS**

14 The Office of General Counsel recommends that the Commission dismiss MUR
15 6271, close the file, and approve the appropriate letters.

16

³ We reviewed the public record, including the Internal Revenue Service's website, in an effort to ascertain Billy Long Auctions' federal tax status, but we were unable to do so.


⁴ Given that the Committee began reporting reimbursements to Billy Long Auctions starting as early as March 31, 2009, within days of the Committee's filing its Statement of Organization with the Commission on March 28, 2009, it may be reasonable to assume that the Committee reimbursed the company for at least the bulk of the latter's in-kind contributions, and reported those reimbursements on its financial disclosure reports, as required by 2 U.S.C. § 434(b).


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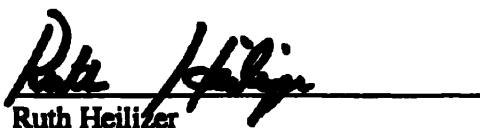
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